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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/590,299	08/23/2006	Jose Caballero	OT-5361	7182
7590 Lisa A Bongiovi Otis Elevator Company 10 Farm Springs Farmington, CT 06032				
EXAMINER CHAN, KAWING				
ART UNIT 2837		PAPER NUMBER		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

## Application No.

10/590,299

## Applicant(s)

CABALLERO ET AL.

## Examiner

Kawing Chan

## Art Unit

2837

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 November 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SE/08)
- Paper No(s)/Mail Date 04/08/09 and 08/23/06
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_

## DETAILED ACTION

### *Information Disclosure Statement*

1. The information disclosure statements (IDS) submitted on 08/23/06 and 04/08/09 are in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by examiner.

### *Claim Objections*

2. Claims 1, 7 and 8 are objected to because of the following recited limitations: "arranged to" in claims 1 and 7, and "adapted to" in claim 8. It has been held that the recitation that an element is "arranged to" or "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchinson*, 69 USPQ 138. Appropriate correction is required.

### *Claim Rejections - 35 USC § 101*

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claim 8 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

In claim 8, applicant claims a "software" executed for operating an elevator system; however, no explicit disclosure about the "software" is stored in any computer

readable medium is recited. Thus, the claimed invention does not provide a practical application. Since the claimed software is not stored in a proper computer readable medium, it can not function with a computer to give a useful, concrete and tangible result. Therefore, the claimed invention is directed to functional descriptive material per se., which is directed to nonstatutory subject matter.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1 and 4-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sansevero (US 6,223,861 B1) in view of Vialonga (US 6,357,553 B1).

In Re claims 1, 7 and 8, Sansevero discloses an elevator system comprising:

- A hoistway (Figure 1);
- An elevator car (11) arranged to move vertically within the hoistway (inherently disclosed);
- A plurality of landings opening into said hoistway (Figure 1); and
- A pit (9) located below a lowermost landing (Figure 1)
- The elevator system further comprising an engineer interface (10) arranged to generate a control signal moving the elevator car to a predetermined parking position above the lowermost landing thereby

allowing access to said pit (Abstract) (when the inspection switch is on, the top and bottom inspection speed limit switches 16, 17 stop the elevator car at positions which allowing access to hoistway overhead or pit floor).

- The elevator is disabled until further control signal is received (Col 2 lines 29-67).

Sansevero fails to disclose the engineer interface located at or near the lowermost landing.

However, with reference to Figure 1, Vialonga discloses an elevator system comprising:

- An engineer interface (30) located at lowermost landing (lowermost level) arranged to generate a control signal for moving the elevator car to a predetermined parking position above the lowermost landing (bring the car to the desire landing and generate signal to move the car up and down) (Col 1 line 64 to Col 2 line 37).

Thus, it would have been obvious to one having ordinary skill in the art at the time of the invention was made to have modified the teachings of Sansevero with the teachings of Vialonga, since it is known in the art to provide the engineer interface (inspection switch) at different landing levels so that it would be easier for mechanic to inspect the elevator depending on the situation.

In Re claim 4, Vialonga discloses the engineer interface (30) comprises a key switch.

In Re claim 5, with reference to Figure 1, Vialonga discloses the engineer interface is located adjacent an elevator call button (28) at the lowermost landing (Col 2 lines 7-17).

In Re claim 6, Sansevero discloses a logical means (top and bottom inspection speed limit switches 16, 17) for preventing movement of said car when in said parking position (Abstract).

7. Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sansevero (US 6,223,861 B1) in view of Vialonga (US 6,357,553 B1) as applied to claim 1 above, and further in view of Conchello (WO 02/096791 A1).

In Re claim 2, Sansevero and Vialonga have been discussed above, but they fail to explicitly disclose a locking means for locking the car to a guide rail.

However, with reference to Figures 1 and 3, Conchello discloses a locking means (1-5) for locking the car to a guide rail (6) (Abstract).

Thus, it would have been obvious to one having ordinary skill in the art at the time of the invention was made to have modified the teachings of Sansevero and Vialonga with the teachings of Conchello, since it is known in the art to utilize a locking means for locking the car to a guide rail so as to be able to protect the mechanic who enters the pit to inspect the elevator car during maintenance.

In Re claim 3, Conchello discloses the locking means are accessible from beneath the car (since pit floor is always beneath the car and part of the locking means 4.2 is disposed in the lower part of the pit; therefore, Conchello inherently discloses the locking means could be accessed from beneath the car) (Abstract).

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Malone, Kocher et al., Huber et al., Macuga and Scott are further cited to show related teachings in the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kawing Chan whose telephone number is (571)270-3909. The examiner can normally be reached on Mon-Fri 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Walter Benson can be reached on 571-272-2227. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/BENTSU RO/  
Primary Examiner, Art Unit 2837

Kawing Chan  
Examiner  
Art Unit 2837